



Registration of a Charge

Company name: **AMICURA CLEVELAND PARK LIMITED**

Company number: **11390928**



X98YX1JV

Received for Electronic Filing: **10/07/2020**

Details of Charge

Date of creation: **06/07/2020**

Charge code: **1139 0928 0001**

Persons entitled: **FORT TRUSTEES LIMITED, AS TRUSTEE OF THE MAHESH AND ALKA PATEL 2003 TRUST**

Brief description: **KINGFISHER CARE HOME (FORMERLY KNOWN AS CLEVELAND PARK CARE HOME), CLEVELAND ROAD, NORTH SHIELDS NE29 0NW(TITLE NUMBER: TY11885)**

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

CHARLES RUSSELL SPEECHLYS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 11390928

Charge code: 1139 0928 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 6th July 2020 and created by AMICURA CLEVELAND PARK LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th July 2020 .

Given at Companies House, Cardiff on 13th July 2020

The above information was communicated by electronic means and authenticated
by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

EXECUTION VERSION

I certify that save for material redacted pursuant to section 859G of the Companies Act 2006, this copy is a correct copy of the electronic original instrument.

Signed: *Charles Russell Speechlys LLP*

Date: 8 July 2020

DATED 6 July 2020

THE COMPANIES LISTED IN SCHEDULE 1

(as Chargors)

and

**FORT TRUSTEES LIMITED, AS TRUSTEE OF THE MAHESH
AND ALKA PATEL 2003 TRUST**

(as Lender)

DEBENTURE

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THIS DEED is dated 6 July 2020

BETWEEN:

- (1) **THE COMPANIES** listed in Schedule 1 (*Chargors*) (each a "**Chargor**", and together the "**Chargors**"); and
- (2) **FORT TRUSTEES LIMITED, AS TRUSTEE OF THE MAHESH AND ALKA PATEL 2003 TRUST**, a company registered in the Island of Guernsey with company number 3394 and whose registered office is at Bordage House, Le Bordage, St Peter Port, Guernsey, GY1 1BU (the "**Lender**").

BACKGROUND:

Each Chargor enters into this Deed in connection with the Loan (as defined below).

IT IS AGREED as follows:

1 DEFINITIONS

In this Deed:

Account Bank	each bank, financial institution or other person with whom an Account is maintained
Accounts	the account(s) the details of which are specified in Schedule 4 (<i>Account Details</i>) and all other accounts held with any Account Bank at any time owned or operated by a Chargor as renumbered or redesignated from time to time, each replacement account or sub-account relating to any of them, all money from time to time standing to the credit of those accounts and all interest accruing in relation to them and the debt or debts represented thereby
Administrator	any administrator appointed in respect of any Chargor whether by the Lender, a court or otherwise
Authorisation	means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration
Business Day	means a day, other than a Saturday or Sunday, on which the banks are open for business in London
Chattels	all plant, machinery, vehicles, tools, computers, equipment, furniture and other chattels (excluding any for the time being forming part of a Chargor's stock in trade or work in progress) and any renewals or replacements of them together with the benefit of all warranties, guarantees, maintenance contracts, consents and licences relating to them
Delegate	means any delegate, agent, attorney or co-trustee appointed by the Lender and/or any Receiver (as appropriate)

Discharge Date	the date on which the Lender confirms in writing to any Chargor that all the Secured Liabilities have been irrevocably discharged in full and no further Secured Liabilities are capable of arising
Dividends	all dividends and distributions of any kind, interest and any other income received or receivable by a Chargor in relation to any of the Shares
Event of Default	any event or circumstance specified as such in clause 8.1 (<i>Events of Default and Enforcement of Security</i>) in this Deed
Finance Document	means the Loan Agreements and this Deed
Insolvency Act	the Insolvency Act 1986
Intellectual Property	(a) all present and future patents, trademarks, service marks, designs, business and trade names, copyrights, design rights, moral rights, inventions, confidential information, know-how and other intellectual property rights and interests whether registered or unregistered; and (b) the benefit of all applications, licences and rights to use the assets listed in paragraph (a) above
Investments	the Shares and Dividends
Loan Agreements	(i) the loan agreement dated 28 March 2019 between the Lender and Amicura Holdings Limited relating to a loan facility of £10,000,000; and (ii) any other loan or facility agreement, or debt instrument, between any Chargor and the Lender,
LPA	the Law of Property Act 1925
Monetary Claims	all book and other debts and monetary claims of any nature and however arising at any time owing to a Chargor or in which it has an interest and all proceeds of those debts and claims together with the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to the same
Mortgaged Property	any freehold, leasehold or immovable property specified in Schedule 3 (<i>Mortgaged Property</i>)
Party	a party to this Deed

**Planning
Legislation**

any legislation regulating the development or use of land or the erection and demolition of buildings and other structures on such land and all orders, regulations and permissions made, issued or granted under such legislation

Policies

- (a) each of the insurance policies described in Schedule 5 (*Insurance Policies*);
- (b) each other insurance policy taken out at any time by or on behalf of a Chargor or in respect of which it has an interest or a right to claim; and
- (c) any other insurance policy designated as a "Policy" by the Lender

Real Property

- (a) the Mortgaged Property;
- (b) any other freehold, leasehold or immovable property in which a Chargor has an interest (including, for the avoidance of doubt, an option to purchase any property); and
- (c) any buildings, erections, fixtures, fittings (including trade fittings and machinery) and fixed plant and machinery from time to time situated on or forming part of the property listed in paragraphs (a) above and (b) above and includes all Related Rights

Receiver

a receiver or receiver and manager or administrative receiver of the whole or any part of the Security Assets

Regulations

the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)

Related Rights

as regards any Security Asset, all present and future:

- (a) money and proceeds of any nature paid or payable in relation to that Security Asset, including sale proceeds and money paid by way of damages, award or judgment made in connection with that Security Asset;
- (b) all rights and interests of any nature attaching to, deriving from or exercisable as a result of a Chargor's interest in or ownership or operation of that Security Asset; and
- (c) all rights to make a demand or claim

Relevant Currency	in relation to each of the Secured Liabilities, the currency in which it is from time to time denominated
Secured Liabilities	all present and future monies, obligations and liabilities (whether actual or contingent and whether owed jointly or severally as principal or surety or in any other capacity whatsoever) of each Chargor to any Secured Party under each Finance Document or otherwise together with all interest accruing in respect of any such monies, obligations and liabilities
Secured Party	means the Lender, a Receiver or Delegate
Security	means a mortgage, charge, pledge, lien or other security interest (including without limitation a floating charge) securing any obligation of any person or any other agreement having a similar effect
Security Assets	all of the rights, interests and assets which from time to time are, or are expressed to be, subject to the Security created by or pursuant to this Deed
Shares	(a) all shares, stocks, debentures, bonds, any form of loan capital, warrants, coupons, interests in collective investment schemes and all other securities and investments of any kind whatsoever (whether in certificated or uncertificated form) owned by a Chargor or in which it has an interest from time to time including (without limitation) the shares listed in Schedule 2 (<i>The Shares</i>); (b) shares, stocks, debentures, bonds, any form of loan capital, warrants, coupons, securities, investments, money or other assets arising by way of conversion, exchange, substitution, rights issue, redemption, bonus, preference, option or otherwise in relation to any of the assets referred to in paragraph (a) above; (c) rights to subscribe for, purchase or otherwise acquire any of the assets referred to in paragraph (a) above through options, warrants or otherwise
Tax	means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same

2 CONSTRUCTION

- 2.1 Unless defined in this Deed, a term defined in the Loan Agreement has the same meaning in this Deed and in any notice given under or in connection with this Deed.

- 2.2 Unless a contrary indication appears, a reference in this Deed to:
- 2.2.1 this Deed, a **"Finance Document"** or any other agreement or instrument is a reference to this Deed or that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
 - 2.2.2 a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
 - 2.2.3 a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - 2.2.4 **"Security Asset"**, **"Accounts"**, **"Chattels"**, **"Intellectual Property"**, **"Investments"**, **"Monetary Claims"**, **"Policies"** and **"Real Property"** includes:
 - (a) any part of that asset;
 - (b) any present and future assets of that type; and
 - (c) all Related Rights relating to assets of that type;
 - 2.2.5 **"Secured Liabilities"** is deemed to include a reference to any part of them;
 - 2.2.6 the **"Lender"**, a **"Chargor"**, or any **"Party"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Lender, any person for the time being appointed as Lender in accordance with the Finance Documents;
 - 2.2.7 a provision of law is a reference to that provision as amended or re-enacted;
 - 2.2.8 the singular is deemed to include the plural and vice versa; and
 - 2.2.9 a time of day is a reference to London time.
- 2.3 The term **"Lender"** includes any subsidiary or group company or assignee of the Lender granting or continuing to grant facilities or accommodation to a Chargor.
- 2.4 **"Receivers"** are references to receivers of whatsoever nature including, without limitation, receivers, managers and administrative receivers.
- 2.5 **"Administrators"** are references to administrators appointed under the Insolvency Act and include administrators appointed under the out of court procedure under the Insolvency Act.
- 2.6 Clause and Schedule headings are for ease of reference only.
- 2.7 A **"Default"** (other than an Event of Default) is **"continuing"** if it has not been remedied or waived and an Event of Default is **"continuing"** if it has not been waived.
- 2.8 Any undertaking given by a Chargor under this Deed remains in force until the Discharge Date and is given for the benefit of the Lender.
- 2.9 The terms of the other Finance Documents and of any agreement, instrument or side letters between any parties to the Loan Agreement in relation to any Finance Document (as the case

may be) are incorporated into this Deed to the extent required to ensure that any purported disposition or any agreement for the disposition of any freehold or leasehold property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

- 2.10 The absence of or incomplete details of any Security Asset in any Schedule does not affect the validity or enforceability of any Security under this Deed.
- 2.11 Clauses 4.2 (*Land*) to 4.9 (*Miscellaneous*) shall be construed as creating a separate and distinct mortgage or fixed charge over each relevant asset within any particular class of assets defined under this Deed and the failure to create an effective mortgage or fixed charge (whether arising out of this Deed or any act or omission by any Party) on any one asset shall not affect the nature of any mortgage or fixed charge imposed on any other asset whether within that same class of assets or not.
- 2.12 It is intended that this Deed takes effect as a deed notwithstanding the fact that a Party may only execute this Deed under hand.
- 2.13 If the Lender considers that an amount paid to it under any Finance Document or in relation to any Secured Liability is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- 2.14 All obligations of the Chargors under this Deed shall be joint and several.
- 2.15 The provisions of this Deed are subject to the terms of the Loan Agreement and if and to the extent that the terms of the Loan Agreement are inconsistent with any term herein, the terms of the Loan Agreement shall prevail.

3 **UNDERTAKING TO PAY**

Each Chargor covenants with the Lender, on demand, to pay, discharge and satisfy all the Secured Liabilities when due and to indemnify the Secured Parties against any losses, costs, charges, expenses and liabilities arising from any breach or failure to pay, discharge and satisfy the Secured Liabilities in accordance with their respective terms.

4 **SECURITY**

4.1 **Nature of the Security**

4.1.1 All the Security created under this Deed:

- (a) is created in favour of the Lender;
- (b) is a continuing security for the payment, discharge and performance of all the Secured Liabilities except for any Secured Liabilities which, if secured by this Deed, would cause such Security to be unlawful or prohibited by any applicable law; and
- (c) is granted with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

4.1.2 If a Chargor assigns its rights under an agreement (or charges those rights by way of first fixed charge) under this Deed and that assignment or charge breaches a term of that agreement because a third party's consent has not been obtained:

- 6 July 2016
- (a) that Chargor shall notify the Lender promptly;
 - (b) until the consent is obtained, this Deed will secure all amounts of any nature which that Chargor may now or in future receive under or in connection with that agreement but rights under the agreement itself shall not be secured under this Deed. Upon receipt of the relevant consent, the relevant rights under the agreement shall stand assigned or charged as the case may be, to the Lender under this Deed; and
 - (c) unless the Lender otherwise requires, that Chargor shall use all reasonable endeavours to obtain the consent of the relevant party to rights under that agreement being secured in accordance with this Deed.

4.1.3 Each Chargor shall promptly supply the Lender with a copy of any consent obtained by it.

4.2 **Land**

Each Chargor charges:

- 4.2.1 by way of a first legal mortgage, all the Mortgaged Property owned by it and all rights under any licence or other agreement or document which gives each Chargor a right to occupy or use the Mortgaged Property owned by it; and
- 4.2.2 (to the extent that they are not the subject of a mortgage under paragraph 4.2.1 above) by way of first fixed charge, all the Real Property owned by it and all rights under any licence or other agreement or document which gives each Chargor a right to occupy or use Real Property owned by it.

4.3 **Chattels**

Each Chargor charges by way of a first fixed charge all the Chattels owned by it and its interest in any Chattels in its possession.

4.4 **Investments**

Each Chargor charges by way of a first fixed charge all the Shares and Dividends.

4.5 **Accounts**

- 4.5.1 Each Chargor assigns absolutely, by way of security, subject to reassignment by the Lender in accordance with Clause 20 (*Release of Security*), all its rights in respect of the Accounts.
- 4.5.2 To the extent that they are not effectively assigned under paragraph 4.5.1 above, each Chargor charges by way of first fixed charge all of its rights and interest in and to the Accounts.

4.6 **Monetary Claims**

Each Chargor charges by way of a first fixed charge all the Monetary Claims.

4.7 **Insurances**

- 4.7.1 Each Chargor assigns absolutely, by way of security, subject to reassignment by the Lender in accordance with Clause 20 (*Release of Security*), all amounts payable to it under or in connection with the Policies and all of its rights in connection with those amounts.
- 4.7.2 To the extent that they are not effectively assigned under paragraph 4.7.1 above, each Chargor charges by way of a first fixed charge the relevant amounts and rights described in paragraph 4.7.1 above.

4.8 **Intellectual Property**

Each Chargor charges by way of first fixed charge all its rights in its Intellectual Property.

4.9 **Miscellaneous**

Each Chargor charges by way of first fixed charge:

- 4.9.1 any beneficial interest, claim or entitlement it has in any pension fund;
- 4.9.2 any and all Related Rights;
- 4.9.3 all rights to recover any Taxes on any supplies made to it relating to any Security Asset and any sums so recovered;
- 4.9.4 its goodwill and uncalled capital; and
- 4.9.5 the benefit of any Authorisation (statutory or otherwise) held in connection with its use of any Security Asset and the right to recover and receive compensation or any other sum payable in relation to any Authorisation.

4.10 **Floating charge**

- 4.10.1 Each Chargor charges by way of a first floating charge all of its assets whatsoever and wheresoever not at any time otherwise effectively mortgaged, charged or assigned by way of mortgage, fixed charge or assignment under this Clause 4.
- 4.10.2 Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created pursuant to paragraph 4.10.1 which is a "qualifying floating charge" for the purpose of paragraph 14(1) of Schedule B1 of the Insolvency Act.

4.11 **Crystallisation**

- 4.11.1 The Lender may at any time by notice in writing to each and any Chargor convert any floating charge created by that Chargor pursuant to Clause 4.10 (*Floating charge*) above into a fixed charge with immediate effect as regards any property or assets specified in the notice if:
 - (a) the Security constituted by this Deed has become enforceable in accordance with Clause 8 (*Enforcement of Security*); or
 - (b) the Lender considers any Security Asset to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or otherwise to be in jeopardy; or

- (c) the Lender reasonably considers that it is necessary in order to protect the priority of its Security.

4.11.2 Notwithstanding paragraph 4.11.1 above and without prejudice to any rule of law which may have a similar effect, the floating charge created by Clause 4.10 (*Floating charge*) will automatically and immediately (without notice) convert into a fixed charge over all of each Chargor's assets if:

- (a) any Chargor creates or attempts to create any Security over any of the Security Assets without the prior written consent of the Lender;
- (b) any person levies or attempts to levy any distress, execution or other process against any of the Security Assets;
- (c) a receiver or administrator is appointed in respect of any Chargor or a person entitled to appoint an administrator in respect of any Chargor gives notice of its intention to do so or files a notice of appointment with a court; or
- (d) any corporate action, legal proceedings or other procedure or step is taken in relation to the suspension of payments, winding up, dissolution or re-organisation of any Chargor other than a winding up petition which is stayed within 14 days of commencement.

4.11.3 Notwithstanding any other provision of this Deed, the floating charge created by Clause 4.10 (*Floating charge*) may not be converted into a fixed charge solely by reason of:

- (a) the obtaining of a moratorium; or
- (b) anything done with a view to obtaining a moratorium,

as a preliminary to a creditors voluntary arrangement by an eligible company (as determined under Schedule A1 of the Insolvency Act) under the Insolvency Act.

5 REAL PROPERTY

5.1 Investigation of title

Each Chargor shall grant the Lender or its lawyers on request all facilities within the power of that Chargor to enable the Lender or its lawyers (at the expense of the Chargors) to:

- 5.1.1 carry out investigations of title in relation to its Real Property; and
- 5.1.2 make such enquiries in relation to any part of its Real Property as a prudent mortgagee might carry out.

5.2 Compensation payments

Subject to the rights and claims of any person having prior rights to such compensation, all monies payable to a Chargor by way of compensation, whether under Section 25 of the Law of Property Act 1969 or under the Landlord and Tenant Acts 1927 to 1954 or otherwise, shall be paid to the Lender (who shall be entitled to give good receipt for such monies) and applied in accordance with Clause 11.1 (*Order of application*) as though they were the proceeds of the enforcement of the Security constituted by this Deed, and any monies that may be received by a Chargor shall, pending such payment, be held on trust for the Lender.

5.3 **Power to remedy**

If any Chargor fails to comply with any of the undertakings contained in this Clause 5, each Chargor shall allow the Lender or its agents and contractors:

- 5.3.1 to enter any part of its Real Property;
- 5.3.2 to comply with or object to any notice served on that Chargor in respect of its Real Property; and
- 5.3.3 to take any action as the Lender may reasonably consider necessary or desirable to prevent or remedy the relevant breach or to comply with or object to any such notice.

Any Chargor shall within 3 Business Days of request by the Lender pay the costs and expenses of the Lender and its agents and contractors incurred in connection with any action taken under this sub-clause.

6 **THE LAND REGISTRY**

- 6.1 Each Chargor consents to an application being made to the Land Registry to enter the following restriction on the Register of Title relating to any Real Property registered at the Land Registry:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the charge dated [REDACTED] in favour of Fort Trustees Limited, as trustees of the Mahesh and Alka Patel 2003 Trust referred to in the charges register".

- 6.2 No Chargor shall allow any person other than itself to be registered under the Land Registration Act 2002 as proprietor of any of the Real Property and will not, as regards any Real Property, create or permit to arise any overriding interest within the meaning of the Land Registration Act 2002 or the Land Registration Rules 2003 and more particularly set out in Schedule 1 or Schedule 3 of the Land Registration Act 2002.
- 6.3 No Chargor shall permit any person to become entitled to any proprietary right or interest which might affect the value of any Real Property.
- 6.4 Each Chargor shall promptly make all applications to and filings with the Land Registry which are necessary or desirable under the Land Registration Rules 2003 to protect the Security created by or pursuant to this Deed.
- 6.5 Each Chargor authorises the Lender and/or any solicitors or other agent acting on behalf of the Lender to complete, execute and deliver on the relevant Chargor's behalf (but at the cost of the Chargors) to the Land Registry any form, document or other information requested by the Land Registry with regard to the applications referred to in this Clause 6.

7 **POWERS, PROTECTION AND DISCRETIONS OF THE LENDER**

7.1 **Rights and powers etc**

All the rights, powers, authorities and discretions which are expressly or impliedly conferred by this Deed on a Receiver may, after the Security constituted by this Deed has become enforceable, be exercised by the Lender in respect of the Security Assets whether or not a Receiver has been or is later appointed.

7.2 **Protections**

All the protections and immunities which this Deed provides for a Receiver shall be available to the Lender when the Lender is exercising the rights, powers, authorities and discretions conferred on the Lender by this Deed.

7.3 **Curing of breaches and covenants**

If any Chargor fails to comply with any provision of this Deed, then each Chargor shall allow and hereby authorises the Lender or its nominee to do all such acts and things and take such action on behalf of any Chargor as may be necessary to secure compliance with that provision without becoming liable as a mortgagee in possession.

7.4 **Indemnity**

Each Chargor shall indemnify the Lender against all losses, costs, charges and expenses incurred by the Lender as a result of the failure by any Chargor to comply with any provision of this Deed and in connection with the exercise by the Lender or its nominee of their respective rights contained in Clause 7.3 (*Curing of breaches and covenants*).

7.5 **Expenses so incurred**

All monies expended and all costs incurred by the Lender or its nominee in carrying out any of their respective powers and discretions referred to in Clause 7.3 (*Curing of breaches and covenants*) shall be considered to have been properly incurred by the Lender or its nominee, shall be secured by this Security and shall be payable on demand by the Chargors to the Lender.

8 **EVENTS OF DEFAULT AND ENFORCEMENT OF SECURITY**

8.1 **Event of Default**

Upon the occurrence of any of the following Events of Default, namely if:

- 8.1.1 a Chargor fails to pay in the currency, at the time or in the manner set out in the Loan Agreements any sum due to the Lender pursuant to the Loan Agreements; or
- 8.1.2 a Chargor commits any breach of or defaults in the due and punctual performance or observance of any of the terms, obligations or covenants set out in the Loan Agreements or such other Finance Document to which it is a party unless such failure to comply is capable of remedy and is remedied within fifteen (15) Business Days of the Lender giving notice a Chargor or a Chargor as the case may be becoming aware of the failure to comply; or
- 8.1.3 a Chargor is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness; or
- 8.1.4 the value of the assets of a Chargor less than its liabilities (taking into account contingent and prospective liabilities and taking account of when such liabilities fall due); or
- 8.1.5 a moratorium is declared in respect of any indebtedness of a Chargor; or

- 8.1.6 any corporate action, legal proceedings or other procedure or step is taken in relation to:
- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any member of the corporate group;
 - (b) a composition, compromise, assignment or arrangement with any creditor of any member of the corporate group;
 - (c) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any member of the corporate group or any of its assets; or
 - (d) enforcement of any Security over any assets of any member of the corporate group, or any analogous procedure or step is taken in any jurisdiction; or
- 8.1.7 any expropriation, attachment, sequestration, distress or execution affects any asset of a Chargor and is not discharged within twenty (20) Business Days; or
- 8.1.8 in the reasonable opinion of the Lender, the Lenders shall determine that there shall be a material adverse change in the financial position of a Chargor and as a result the Chargor's ability to repay a loan made under the Loan Agreements or to pay any other sums payable hereunder is or may be prejudiced,

then at any time thereafter, the Lenders in their discretion may by notice to the Borrower declare the Facility cancelled and the Facility and all other sums payable to it hereunder to be immediately due and payable and/or payable on demand by the Lender.

8.2 **Timing**

The Security created by this Deed will be immediately enforceable at any time after the occurrence of an Event of Default (or otherwise where requested of the Lender by a Chargor).

8.3 **Enforcement**

After the Security constituted by this Deed has become enforceable, the Lender may, without notice to any Chargor or prior authorisation from any court, in its absolute discretion:

- 8.3.1 enforce all or any part of that Security (at any time and in any manner it sees fit);
- 8.3.2 appoint a Receiver to all or any part of the Security Assets;
- 8.3.3 appoint one or more persons as an Administrator of any Chargor in accordance with Schedule B1 of the Insolvency Act;
- 8.3.4 take possession of and hold or dispose of all or any part of the Security Assets including, without limitation, all of the powers conferred on a mortgagee under the LPA (as varied or extended by this Deed) or any of the powers conferred on a holder of a qualifying floating charge holder (as defined in the Insolvency Act);
- 8.3.5 secure and perfect its title to all or any part of a Security Asset and / or transfer any asset into the name of its nominee;

- 8.3.6 exercise in relation to any Security Asset all the powers, authorities and things which it would be capable of exercising if it were the absolute legal and beneficial owner of that Security Asset;
- 8.3.7 whether or not it has appointed a Receiver, exercise all or any of the rights, powers, authorisations and discretions conferred by the LPA (as varied and extended by this Deed) on mortgagees, by this Deed on any Receiver, or conferred by the Insolvency Act or any other law on mortgagees and Receivers;
- 8.3.8 subject to paragraph 4.11.3, by written notice to each and any of the Chargors convert the floating charge created by Clause 4.10 (*Floating Charge*) into a fixed charge as regards any assets specified in that notice;
- 8.3.9 exercise the statutory power of sale and any other powers conferred by section 101 of the LPA and the statutory powers of leasing as amended and varied in the forgoing clauses and all other statutory powers in respect of the whole or any part of the Security Assets;
- 8.3.10 exercise all its rights, powers and remedies as assignee of the Accounts or any contracts and/or agreements and, in particular, the right to:
 - (a) demand and receive any interest or other monies payable in respect of any credit balance on any Account or any relevant contract or agreement; and
 - (b) withdraw sums standing to the credit of any Account (or, by notice to the bank with whom such Account is maintained, block the withdrawal of any such sums) and otherwise exercise all rights in relation to the Accounts as the relevant Chargor may exercise (or, but for this Deed) might exercise; and
 - (c) apply, transfer or set-off any or all of the balances from time to time standing to the credit of the Accounts in or towards the payment or other satisfaction of all or part of the Secured Liabilities then due but unpaid in accordance with Clause 11.1 (*Order of application*).

8.4 **Statutory powers**

- 8.4.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- 8.4.2 The statutory power of sale or other right of disposal conferred on the Lender and on any Receiver by this Deed shall operate as a variation and extension of the statutory power of sale under section 101 of the LPA and such power shall arise (and the Secured Liabilities shall be deemed due and payable for that purpose) on execution of this Deed.
- 8.4.3 The statutory powers of leasing may be exercised by the Lender at any time on or after the Security constituted by this Deed has become enforceable and such powers are extended by this Deed so as to authorise the Lender to make any lease or agreements for lease, accept surrenders of leases and grant options on such terms as the Lender may think fit and without the need to comply with any restrictions imposed by law (including, but not limited to, under section 99 or section 100 of the LPA).

- 8.4.4 For the purposes of sections 99 and 100 of the LPA, the expression "Mortgagor" will include any incumbrancer deriving title under a Chargor and neither sub-section (18) of section 99 nor sub-section (12) of section 100 of the LPA will apply.
- 8.4.5 No Chargor shall have, at any time up until the Discharge Date, the power pursuant to section 99 of the LPA to make any Lease in respect of any Real Property without the prior written consent of the Lender unless permitted pursuant to the terms of the Loan Agreement.
- 8.4.6 The restrictions contained in section 93 and section 103 of the LPA shall not apply to the Security constituted by this Deed.
- 8.4.7 Each Receiver and the Lender is entitled to all the rights, powers and privileges and immunities conferred by the LPA and the Insolvency Act on mortgagees and Receivers.
- 8.4.8 Neither the Lender nor any Receiver will be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

8.5 Access on enforcement

- 8.5.1 At any time after the Security constituted by this Deed has become enforceable, each Chargor will allow any of the Secured Parties, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Security Asset and for that purpose to enter on any premises where a Security Asset is situated (or where any Secured Party reasonably believes a Security Asset to be situated) without incurring any liability to any Chargor for, or by any reason of, that entry.
- 8.5.2 At all times, each Chargor must use its best endeavours to allow any Secured Party access to any premises for the purpose of Clause 8.5.1 (obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

9 RECEIVER

9.1 Appointment of Receiver

- 9.1.1 After the Security constituted by this Deed has become enforceable the Lender may without prior notice, appoint:
- (a) any one or more persons to be a Receiver of all or any part of the Security Assets; or
 - (b) two or more Receivers of separate parts of the Security Assets; or
 - (c) appoint another person(s) as an additional Receiver(s).
- 9.1.2 Any appointment under paragraph 9.1.1 above may be by deed, under seal or in writing under its hand.
- 9.1.3 Any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the LPA) does not apply to this Deed.

- 9.1.4 At any time, if so requested by a Chargor, without further notice, the Lender may appoint a Receiver to all or any part of the Security Assets as if the Lender had become entitled under the LPA to exercise the power of sale conferred under the LPA.

9.2 **Statutory powers of appointment**

The powers of appointment of a Receiver pursuant to Clause 9.1 (*Appointment of Receiver*) above shall be in addition to all statutory and other powers of appointment of the Lender under the LPA (as extended by this Deed), the Insolvency Act or otherwise and such powers shall remain exercisable from time to time by the Lender in respect of any part of the Security Assets and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA or otherwise.

9.3 **Removal**

The Lender may from time to time by writing under its hand (subject to any requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver who has been removed for any reason.

9.4 **Remuneration**

The Lender may from time to time fix the remuneration of any Receiver appointed by it and any maximum rate imposed by any law (including under section 109(6) and (8) of the LPA) will not apply. Any remuneration of any Receiver will form part of the Secured Liabilities.

9.5 **Agent of the Chargors**

- 9.5.1 A Receiver will be deemed to be the agent of the Chargors for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the LPA. Each Chargor is solely responsible for the remuneration, expenses, contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver.

- 9.5.2 No Secured Party will incur any liability (either to the Chargors or to any other person) by reason of the appointment of a Receiver or for any other reason.

- 9.5.3 No Receiver shall at any time act as agent for any other Secured Party.

10 **POWERS OF RECEIVER**

10.1 **Statutory powers**

- 10.1.1 A Receiver (subject to any restrictions in the instrument appointing him but notwithstanding any winding up or dissolution of any Chargor) has (to the extent permitted by law):

- (a) all of the rights, powers, remedies and discretions of an administrative receiver under Schedule 1 of the Insolvency Act, as if such Schedule and all relevant definitions set out in the Insolvency Act were set out in this Deed; and

- (b) otherwise, all the rights, powers, remedies and discretions conferred on a mortgagor, a mortgagee in possession and on a Receiver (or a receiver and manager) appointed under the LPA or the Insolvency Act.

10.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually (and to the exclusion of any other Receiver) or together with any other person appointed or substituted as a Receiver.

10.2 **Additional powers**

In addition to those powers, rights and discretions set out in paragraphs 10.1.1(a) and 10.1.1(b) above, a Receiver shall have the following rights, powers and discretions:

10.2.1 **Possession**

A Receiver may take immediate possession of, get in and collect the Security Assets or any part thereof.

10.2.2 **Carry on business**

A Receiver may carry on, manage or concur in carrying on or managing the whole or any part of the business of any Chargor as he in his discretion may think fit.

10.2.3 **Protection of assets**

A Receiver may:

- (a) manage, insure, repair, decorate, maintain, alter, improve, develop, construct, modify, refurbish, renew or add to the Security Assets or concur in so doing;
- (b) commence, continue or complete any new works, unfinished work, building operations, construction, reconstruction, maintenance, furnishing, finishing or fitting-out on any Real Property; and
- (c) apply for and maintain any planning permissions, building regulations, approvals and any other permissions, consents or licences,

in each case as he in his discretion may think fit.

10.2.4 **Employees**

- (a) A Receiver may appoint and discharge managers, directors and secretaries for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit.
- (b) A Receiver may discharge any person appointed by any Chargor.

10.2.5 **Sale of assets**

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit.

- (b) The consideration for the sale of any Security Asset may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which the Receiver thinks fit.
- (c) Fixtures, other than landlord's fixtures, may be severed and sold separately from the property containing them without the consent of any Chargor.

10.2.6 **Let, hire or lease**

A Receiver may:

- (a) let, hire or lease (with or without premium) and accept surrenders of leases or tenancies or concur in so doing;
- (b) grant rights, options or easements over and otherwise deal with or dispose of and exercise all rights, powers and discretions incidental to, the ownership of the Security Assets; and
- (c) exchange or concur in exchanging the Security Assets,

in each such case in such manner and generally on such terms as he may in discretion think fit, with all the powers of an absolute beneficial owner. The Receiver may exercise any such power by effecting such transaction in the name or on behalf of any Chargor or otherwise.

10.2.7 **Registration**

A Receiver may use any Chargor's name to effect any registration or election for tax or other purposes.

10.2.8 **Insurances**

A Receiver may effect, review or vary insurances.

10.2.9 **Borrowing**

A Receiver may for the purposes of exercising any of the powers, authorities or discretions conferred on him by or pursuant to this Deed or of defraying any costs (including, without limitation, his remuneration) which are incurred by him in the exercise of such powers, authorities or discretions or for any other purpose, raise and borrow money or incur any other liability either unsecured or secured on the Security Assets, either in priority to the Security created by this Deed or otherwise, and generally on such terms as he in his discretion may think fit. No person lending such money is to be concerned to enquire as to the propriety or purpose of the exercise of such power or as to the application of money so raised or borrowed.

10.2.10 **Advance credit**

A Receiver may advance credit, in the ordinary course of any Chargor's business, to any person.

10.2.11 **Make calls** 6 July M

A Receiver may make, or require the directors of any Chargor to make such calls upon the shareholders of that Chargor in respect of any uncalled capital of that Chargor as the Receiver in his discretion may require and enforce payment of any call so made by action (in the name of that Chargor or the Receiver as the Receiver in his discretion may think fit) or otherwise.

10.2.12 **Compromise, legal action and mediation**

A Receiver may:

- (a) settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of any Chargor or relating in any way to any Security Asset;
- (b) bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit; and
- (c) refer to mediation any question in relation to any Security Asset that he thinks fit.

10.2.13 **Subsidiaries**

A Receiver may:

- (a) promote the formation of any subsidiary of any Chargor with a view to such subsidiary purchasing, leasing, licensing or otherwise acquiring an interest in the Security Assets;
- (b) arrange for the purchase, lease, licence or acquisition of an interest in the Security Assets by any such subsidiary for any valuable consideration, including, without limitation, cash, shares, debentures, loan stock, convertible loan stock or other securities, profits or a sum calculated by reference to profits, turnover, royalties, licence fees or otherwise, whether or not secured on the undertaking or assets of such subsidiary and whether or not such consideration is payable or receivable in a lump sum or at any time or any number of times by instalments spread over such period, as the Receiver in his discretion may think fit; and
- (c) arrange for such subsidiary to trade or cease to trade as the Receiver in his discretion may think fit.

10.2.14 **Receipts**

A Receiver may give valid receipts for all monies and execute all assurances and things which he in his discretion may think proper or desirable for realising the Security Assets.

10.2.15 **Environment**

A Receiver may conduct and complete all investigations studies, sampling and testing and all remedial, removal and other actions, whether required under environmental law or by the Lender or otherwise and comply with all lawful orders and directives relating to environmental law.

10.2.16 **Mediation**

A Receiver may refer to mediation any question in relation to any Security Asset that he thinks fit.

10.2.17 **Delegation**

A Receiver may delegate his power in accordance with this Deed.

10.2.18 **Lending**

A Receiver may lend money or advance credit to any customer of any Chargor.

10.2.19 **Other powers**

A Receiver may:

- (a) do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers, remedies or discretions conferred on the Lender or any Receiver under or by virtue of this Deed or by law;
- (b) exercise every power which the Receiver in its absolute discretion considers desirable for maintaining or enhancing the value of the Security Assets or in connection with the enforcement of the Security created by this Deed or the realisation of any Security Asset;
- (c) exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute legal and beneficial owner of that Security Asset;
- (d) do any other acts and things it lawfully may do as agent for any Chargor; and
- (e) use the name of any Chargor for any of the purposes set out in this Clause 10.

10.3 **Powers to be additional**

The powers conferred by this Deed in relation to the Security Assets on the Receiver shall be in addition to, and not in substitution for, the powers conferred on receivers under the LPA and the Insolvency Act.

10.4 **Powers to be exercisable by the Lender**

10.4.1 The Lender may exercise all powers granted by the Receiver by this Deed whether as attorney of any Chargor or otherwise.

10.4.2 The powers of the Receiver set out above are in addition to, and without prejudice to, all statutory and other powers of the Lender as provided in Clause 8.4 (*Statutory powers*) or otherwise and so that, *inter alia*, such powers are and remain exercisable by the Lender in respect of that part of the Security Assets in respect of which no appointment of a Receiver by the Lender is from time to time subsisting.

10.5 **Conflict**

If and to the extent that there is any ambiguity or conflict between:

10.5.1 the powers conferred on the Receiver by the Act and those powers listed in Schedule 1 of the Insolvency Act; and

10.5.2 the powers conferred by this Clause 10,

the powers conferred by this Clause 10 shall prevail.

11 APPLICATION OF PROCEEDS

11.1 Order of application

Subject to Clause 11.2 (*Prospective liabilities*), all amounts from time to time received or recovered by the Lender pursuant to the terms of any Finance Document or in connection with the realisation or enforcement of all or any part of the Security taken in accordance with the terms of this Deed (for the purposes of this Clause 11, the "**Recoveries**") shall be held by the Lender on trust to apply them at any time as the Lender (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 11), in the following order:

11.1.1 in discharging any sums owing to the Lender, any Receiver or any Delegate;

11.1.2 in payment of all costs and expenses incurred by any Secured Party in connection with any realisation or enforcement of the Security taken in accordance with the terms of this Deed;

11.1.3 the balance (if any) will be applied as required by law.

11.2 Prospective liabilities

Following enforcement of any of the Security taken in accordance with this Deed, the Lender may, in its discretion, hold any amount of the Recoveries in an interest bearing suspense or impersonal account(s) in the name of the Lender with such financial institution and for so long as the Lender shall think fit (the interest being credited to the relevant account) for later application under Clause 11.1 (*Order of application*) in respect of:

11.2.1 any sum to the Lender, any Receiver or any Delegate; and

11.2.2 any part of the Secured Liabilities,

11.2.3 any sum that the Lender reasonably considers, in each case, might become due or owing at any time in the future.

11.3 Investment of proceeds

Prior to the application of the proceeds of the Recoveries in accordance with Clause 11.1 (*Order of application*) the Lender may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Lender with such financial institution (including itself) and for so long as the Lender shall think fit (the interest being credited to the relevant account) pending the application from time to time of those monies in the Lender's discretion in accordance with the provisions of this Clause 11.3.

11.4 Currency Conversion

- 11.4.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities the Lender may convert any monies received or recovered by the Lender from one currency to another, at a market rate of exchange.
- 11.4.2 The obligations of each Chargor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

11.5 Permitted Deductions

The Lender shall be entitled, in its discretion:

- 11.5.1 to set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Deed; and
- 11.5.2 to pay all Taxes which may be assessed against it in respect of any of the Security Assets, or as a consequence of performing its duties, or by virtue of its capacity as Lender under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Deed).

12 PROTECTION OF PURCHASERS

- 12.1 No purchaser or other person dealing with any Secured Party shall be bound to enquire:
 - 12.1.1 whether the Secured Liabilities have become due and/or payable;
 - 12.1.2 whether any event has happened upon which any of the powers conferred by this Deed may have arisen or be exercisable or is being properly exercised;
 - 12.1.3 whether any money remains due under the Finance Documents; or
 - 12.1.4 how any money paid to that Secured Party is to be applied.
- 12.2 No purchaser dealing with any Secured Party or the Security constituted by this Deed is to be concerned to enquire whether any power exercised or purported to be exercised by the Secured Parties has become exercisable, or as to the propriety or regularity of any sale by, or other dealing with the Secured Parties. Any such sale or dealing is deemed to be within the powers conferred by this Deed and to be valid and effective accordingly. All the protection to purchasers contained in section 104 and section 107 of the LPA and section 42(3) of the Insolvency Act apply to any purchaser.
- 12.3 The receipt of any Secured Party shall be conclusive discharge to any purchaser and, in making any sale or disposal of any of the Security Assets or making any acquisition, any Secured Party may do for such consideration, in such manner and on such terms as it thinks fit.

13 LIABILITY OF LENDER AND RECEIVER

13.1 Liability

Neither the Lender, any Receiver nor any of their respective Delegates and sub-delegates, (whether as mortgagee in possession or otherwise) shall either by reason of:

- 13.1.1 taking possession of or realising all or any part of the Security Assets; or
- 13.1.2 taking any action permitted by this Deed,

be liable to any Chargor or any other person for any costs, losses or liabilities relating to any of the Security Assets or for any act, default, omission or misconduct of the Lender, any Receiver or their respective Delegates and sub-delegates in relation to the Security Assets or otherwise.

13.2 **Exoneration**

Neither the Lender, any Receiver nor any of their respective Delegates and sub delegates shall have any duty:

- 13.2.1 to perform any Chargor's obligations or exercise any rights in relation to any Security Asset;
- 13.2.2 to ensure that any Related Rights are made available and to ensure that the correct amount has been received in relation to any Related Right;
- 13.2.3 to take up any offer in relation to any Security Asset;
- 13.2.4 to investigate, appraise or report on the status, propriety or validity of the acts of the Receiver or Lender;
- 13.2.5 to give any notification to anyone in relation to any Security Asset; or
- 13.2.6 to take any action to enforce any other person's obligations as regards any Security Asset.

13.3 **Protection of the Receiver**

The Receiver shall be entitled to all the rights, powers, privileges and immunities which the LPA confers on mortgagees and receivers duly appointed under the LPA.

14 **POWER OF ATTORNEY**

- 14.1 Each Chargor, by way of security for the performance of its obligations under this Deed, irrevocably and severally appoints the Lender, each Receiver and each of their respective Delegates and sub-delegates to be its attorney (with full power of substitution and delegation) and in its name, on its behalf and as its act and deed to:

- 14.1.1 execute, deliver and perfect all other documents, deeds and agreements and do all such things, which such Chargor is obliged to take under this Deed but has not done so within 10 Business Days of being notified in writing by the Lender of such failure and being requested to comply, for:
 - (a) carrying out any obligation imposed on any Chargor by this Deed or any agreement binding on any Chargor to which the Lender is a party (including, but not limited to, the execution and delivery of any charges, assignments or other security and any transfers of the Security Assets and perfecting and/or releasing the Security created or intended to be created in respect of the Security Assets); and
 - (b) enabling the Lender and any Receiver to exercise any of the rights, powers and authorities conferred on them pursuant to this Deed or by law (including,

after the Security constituted by this Deed has become enforceable as provided in this Deed, the exercise of any right of a legal or beneficial owner of the Security Assets or any part of the Security Assets);

- 14.1.2 each Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers under this Deed (excluding any act, document or deed done by any attorney which constitutes gross negligence or wilful misconduct by such attorney); and
- 14.1.3 each Chargor covenants (for the purpose of the irrevocable nature of the power of attorney granted in this Clause 14) with each Receiver appointed pursuant to this Deed, to join in and concur with the exercise by such Receiver of any powers of such Receiver to act on behalf of any Chargor.

15 DELEGATION AND DISCRETION

15.1 Delegation

- 15.1.1 The Lender and/or any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are conferred and are exercisable by it under this Deed to any person or persons on such terms and conditions as it sees fit.
- 15.1.2 No such delegation pursuant to this Clause 15 shall preclude either the subsequent exercise of such power, authority or discretion by the Lender or a Receiver itself or any subsequent delegation or revocation of such power, authority or discretion.
- 15.1.3 Neither the Lender nor any Receiver will have any liability to any Chargor or any other person for any loss or liability arising from any act, default, omission or misconduct by any Delegate.

15.2 Discretion

Any right or power which may be exercised or any determination which may be made under this Deed by the Lender or any Receiver may be exercised by it in its absolute and unfettered discretion, without any obligation to give reasons.

16 EFFECTIVENESS OF SECURITY

16.1 Continuing Security

The Security constituted by this Deed shall remain in full force and effect as continuing security for the Secured Liabilities until the Discharge Date and shall not be released before then by any intermediate payment, discharge or satisfaction of all or any of the Secured Liabilities or for any other reason.

16.2 Cumulative rights

The Security created by or pursuant to this Deed and the rights, powers and remedies of the Lender under this Deed shall be cumulative and shall be in addition to and independent of every other Security, guarantee, right, power or remedy which the Lender may at any time have in connection with the Secured Liabilities, including the rights, powers and remedies provided by law, and accordingly, the Lender shall not be obliged before exercising any such rights, powers or remedies:

- 16.2.1 to make any demand of, or take any action or obtain any judgment in any court against, any Chargor;
- 16.2.2 to make or file any claim or proof in winding-up or dissolution of any Chargor; or
- 16.2.3 to enforce or seek to enforce any other Security held by it in respect of the Secured Liabilities.

16.3 No merger of Security

No prior Security held by the Lender (whether in its capacity as trustee or otherwise) or any other Secured Party over the whole or any other part of the Security Assets shall merge with the Security constituted by this Deed.

16.4 No prejudice

The Security created by or pursuant to this Deed shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to any Chargor or any other person, or the Lender or by any variation of the terms of the trust upon which the Lender holds the Security created by or pursuant to this Deed or by any other thing which might otherwise prejudice that Security.

16.5 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any Finance Document on the part of the Lender shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

16.6 Partial invalidity

- 16.6.1 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired.
- 16.6.2 If any part of the Security created or intended to be created by or pursuant to this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the Security constituted under this Deed.

16.7 Further assurance

- 16.7.1 Each Chargor shall promptly, at its own cost, do whatever the Lender requires:
 - (a) to create, perfect and/or protect the Security created or intended be created by this Deed;
 - (b) to create, perfect and/or protect the priority of the Security created or intended be created by this Deed;

- (c) to facilitate the exercise of any rights, powers and remedies vested in the Lender or any Receiver (or their respective Delegates) by this Deed and/or by the law; and/or
- (d) to facilitate the realisation of the Security Assets.

16.7.2 In order to satisfy its obligations under paragraphs **Error! Reference source not found.** and 16.7.1 above, each Chargor shall immediately, upon the request of the Lender, execute any transfer, conveyance, mortgage, charge, assignment or assurance over all or any of the assets intended to constitute the Security Assets (whether in favour of the Lender or its nominee or otherwise) and make any registration or notarisation and give any notice, instructions, order or direction in respect of the Security Assets.

17 PRIOR SECURITY INTERESTS

- 17.1 In the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking Security against any of the Security Assets or in case of exercise by the Lender or any Receiver of any power of sale under this Deed, the Lender may redeem such prior Security or procure the transfer of such Security to itself.
- 17.2 The Lender may settle and agree the accounts of the holder of the prior Security and any accounts so settled and agreed will (in the absence of manifest error) be conclusive and binding on the Chargors.
- 17.3 All principal monies, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by the Chargors to the Lender on demand together with accrued interest on such sums as well as before judgement at the rate from time to time applicable to unpaid sums specified in the Loan Agreements from the time or respective times of the same having been paid or incurred until payment of such sums (as well as after as before judgment).

18 SUBSEQUENT SECURITY INTERESTS

If the Lender receives, or is deemed to be affected by, notice whether actual or constructive of any subsequent Security Asset or other interest other than as permitted by the Loan Agreements affecting the Security Assets, it may open a new account for the relevant Chargor in its books. If the Lender does not open a new account, it shall nevertheless be treated as if it had done so at the time it received or was deemed to be affected by such notice. Unless the Lender gives express written notice to the contrary to the Chargors, all payments made by the relevant Chargor to the Lender will, as from that time, be treated as having been credited to a new account of the relevant Chargor and not as having been applied in reduction of the Secured Liabilities.

19 SUSPENSE ACCOUNT

19.1 Contingencies

If the Security constituted by this Deed, is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, the Lender (or the Receiver) may pay the proceeds of any recoveries effected by it into a suspense account in which event, Clause 19.2 (*Suspense account*) shall apply to such proceeds.

19.2 **Suspense account**

All monies received, recovered or realised by the Lender under this Deed (including the proceeds of any conversion of currency) may in the absolute discretion of the Lender be credited to any interest bearing suspense or impersonal account(s) maintained with a bank, building society or financial institution (including itself) for so long as it may think fit (the interest being credited to the relevant account) pending their application from time to time at the Lender's absolute discretion, in or towards the discharge of any of the Secured Liabilities.

20 **RELEASE OF SECURITY**

Upon the occurrence of the Discharge Date, the Lender shall, at the request and cost of the Chargors, release and cancel the Security constituted by this Deed and procure the reassignment to the relevant Chargor of the property and assets assigned to the Lender pursuant to this Deed, in each case without recourse to, or any representation or warranty by, Lender or any of its Delegates.

21 **SET-OFF**

The Lender may set off any matured obligation due from any Chargor under this Deed (to the extent beneficially owned by the Lender) against any matured obligation owed by the Lender to that Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

22 **FINANCIAL COLLATERAL**

22.1 To the extent that any of the Security Assets constitute "financial collateral" and this Deed constitutes a "security financial collateral arrangement" (as those terms are defined in the Regulations), the Lender shall, upon the Security created by this Deed becoming enforceable pursuant to Clause 8.3 and to the extent permitted by the Regulations, have the right to appropriate all or any part of the Security Assets in or towards the discharge of the Secured Liabilities without obtaining any court authorisation and in such order as the Lender may in its absolute discretion determine.

22.2 The Parties agree that the value of any Security Asset appropriated in accordance with sub-clause 22.1 above shall be:

22.2.1 in the case of cash denominated in the currency of denomination of the Secured Liabilities, the amount of such cash plus any accrued but unposted interest attributable to such cash on the date of appropriation;

22.2.2 in the case of any other cash, the amount of the currency of denomination of the Secured Liabilities that the Lender could purchase with the amount of such cash (plus any accrued but unposted interest attributable to such cash) on the date of appropriation at its spot rate of exchange for such purchase in the London interbank market at or about 11:00 a.m. on that date; or

22.2.3 in the case of Shares, the price of those Shares at the time the right of appropriation is exercised as listed on any recognised market index, independent valuation or as determined by such other method as the Lender may select.

22.3 The Parties agree that the method of valuation provided for in this Clause 22 (*Financial collateral*) is commercially reasonable for the purposes of the Regulations.

23 CURRENCY

23.1 Relevant Currency

Each Chargor is obliged under this Deed to discharge the Secured Liabilities in the Relevant Currency.

23.2 Receipt in wrong currency

If at any time the Lender receives a payment (including by set-off) referable to any of the Secured Liabilities from any source in a currency other than the Relevant Currency, then that payment will take effect as a payment to the Lender of the amount in the Relevant Currency which the Lender is able to purchase (after deduction of any relevant costs) with the amount of the payment so received at its spot rate of exchange for such purchase in the London interbank Market at or about 11:00 a.m. on that date.

23.3 Currency indemnity

23.3.1 If any sum due from a Chargor under this Deed (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which the Sum is payable into another currency (the "**Second Currency**") for the purposes of:

- (a) making or filing a claim against any Chargor; or
- (b) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

each Chargor shall, as an independent obligation, within three Business Days of demand, indemnify the Lender against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (a) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (b) the rate or rates of exchange available to the Lender at the time of receipt of that Sum.

23.3.2 Each Chargor waives any right it may have in any jurisdiction to pay any amount under this Deed in a currency or currency unit other than in which it is expressed to be payable.

24 PAYMENTS TO BE MADE WITHOUT DEDUCTION

24.1 No deductions

All sums payable by each Chargor under this Deed shall be paid in the Relevant Currency in immediately available funds and shall be paid to the credit of such account as the Lender may designate. All such payments shall be made in full without set-off of any sum owing by the Lender to any Chargor or counterclaim and free and clear of any deductions of or withholding for or on account of any Tax or for any other reason, except to the extent that any such deduction or withholding is required by law.

24.2 Grossing-up

If at any time any Chargor is required by law to make any deduction or withholding from any payment due from that Chargor to the Lender, that Chargor shall simultaneously pay to the

Lender whatever additional amount is necessary to ensure that the Lender receives a net sum equal to the payment it would have received had no deduction or withholding been made.

25 **CERTIFICATES AND DETERMINATIONS**

A certificate or determination by the Lender or a Receiver of a rate or an amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

26 **ASSIGNMENT AND TRANSFER**

26.1 **Chargors consent to assignment/transfer by Lender**

Each Chargor consents to the assignment and/or transfer by the Lender of any one or more of its rights and/or obligations under this Deed. The Lender may, without consulting with or obtaining consent from any Chargor at any time charge, assign or otherwise create Security in or over its rights, benefits and interests under this Deed to secure any obligations of any Secured Party.

26.2 **No assignment/transfer by Chargors**

No Chargor may assign or transfer any one or more of its rights and/or obligations under this Deed.

26.3 **Confidentiality**

The Lender shall be entitled to disclose any information concerning any Chargor and this Deed as it considers appropriate to:

- 26.3.1 any person proposing to take an assignment and/or transfer from the Lender;
- 26.3.2 any person proposing to enter into contractual relations with the Lender with respect to this Deed; and
- 26.3.3 any person to whom information may be required to be disclosed by an applicable law.

27 **INDEMNITY TO THE LENDER**

27.1 Each Chargor shall promptly indemnify the Lender and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:

- 27.1.1 any failure by any Chargor to comply with its obligations under Clause 28 (*Costs and expenses*);
- 27.1.2 acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
- 27.1.3 the taking, holding, perfection, preservation, protection or enforcement of the Security constituted under this Deed;
- 27.1.4 the exercise of any of the rights, powers, discretions and remedies vested in the Lender, each Receiver and their Delegate and sub-delegates by this Deed or by law;
- 27.1.5 any default by any Chargor in the performance of any of the obligations expressed to be assumed by it in this Deed;

27.1.6 instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under the Finance Documents; or

27.1.7 acting as Lender, Receiver or Delegate under this Deed or which otherwise relates to any of the Security Assets (otherwise, in each case, than by reason of the relevant Lender's, Receiver's or Delegate's gross negligence or wilful misconduct).

28 **COSTS AND EXPENSES**

28.1 **Transaction expenses**

Each Chargor shall promptly on demand pay the Lender the amount of all costs and expenses (including legal fees) reasonably incurred by it in connection with the negotiation, preparation, printing, execution, and perfection of this Deed, any other documents referred to in this Deed and the Security constituted by this Deed.

28.2 **Amendment costs**

If any Chargor requests an amendment, waiver or consent in connection with this Deed, each Chargor shall, within three Business Days of demand, reimburse the Lender for the amount of all costs and expenses (including legal fees) reasonably incurred by the Secured Parties in responding to, evaluating, negotiating or complying with that request or requirement.

28.3 **Enforcement and preservation costs**

Each Chargor shall, within three Business Days of demand, pay to the Lender the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of or the preservation of any rights under this Deed and any proceedings instituted by or against any Secured Party as a consequence of taking or holding the Security constituted by this Deed or enforcing these rights.

29 **MISCELLANEOUS**

29.1 **Variations**

No variation of the terms of this Deed shall be valid unless such variation is in writing and signed by each Chargor and the Lender.

29.2 **Third party rights**

Other than any Secured Party a person who is not a Party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

29.3 **Perpetuity period**

The trusts created by this Deed have a perpetuity period of 125 years.

29.4 **Counterparts**

This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

30 NOTICES

30.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or letter.

30.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is:

30.2.1 in the case of the Lender, that identified by its name below; and

30.2.2 in the case of each Chargor, that identified by its name below,

or any substitute address fax number or department or officer as any Chargor may notify to the Lender (or the Lender may notify to the Chargors, if a change is made by the Lender) by not less than five Business Days' notice.

30.3 Delivery

30.3.1 Any communication or document made or delivered by the Lender to any Chargor under or in connection with this Deed shall only be effective:

- (a) if by way of fax, when received in legible form; or
- (b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to the relevant party at that address,

and, in the case of the Lender, if a particular department or officer is specified as part of its address details provided under Clause 30.2 (*Addresses*), if addressed to that department or officer.

30.3.2 Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer certified in Clause 30.2 (*Addresses*) (or any substitute department or officer as the Lender will specify for this purpose).

30.3.3 Any communication or document which becomes effective, in accordance with paragraphs 30.3.1 and 30.3.2 above after 5.00pm in the place of receipt shall be deemed to only become effective on the following day.

30.4 English language

30.4.1 Any notice given under or in connection with this Deed must be in English.

30.4.2 All other documents provided under or in connection with this Deed must be:

- (a) in English; or

- (b) if not in English, and if so required by the Lender, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

31 **GOVERNING LAW AND JURISDICTION**

31.1 **Governing law**

This Deed and any non contractual obligation arising out of or in connection with it are governed by English law.

31.2 **Jurisdiction of English courts**

- 31.2.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").
- 31.2.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- 31.2.3 This Clause 31.2 is for the benefit of the Lender only. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

This Deed is executed as a deed by each Chargor and is signed for and on behalf of the Lender and is delivered and takes effect on the date at the beginning of this Deed.

SCHEDULE 1 – CHARGORS

Name	Jurisdiction of Incorporation	Registered Number
Amicura Holdings Limited	England and Wales	11190530
Amicura Limited	England and Wales	07793106
Amicura Morecambe Limited	England and Wales	11189234
Amicura Cleveland Park Limited	England and Wales	11390928
Amicura Kettering Limited	England and Wales	11535462
Amicura Scarborough Limited	England and Wales	11510160
Amicura Haslingden Limited	England and Wales	09598484
Amicura Chorley Limited	England and Wales	09369156
Roseway Care Limited	England and Wales	11673875
Amicura Nuneaton Limited	England and Wales	11861823

SCHEDULE 2
– THE SHARES

Chargor	Name of Company	Description of Shares (class and nominal value)	Amount of Shares
Amicura Holdings Limited	Amicura Limited	Ordinary Shares of £1	1
Amicura Holdings Limited	Amicura Morecambe Limited	Ordinary Shares of £1	100
Amicura Holdings Limited	Amicura Cleveland Park Limited	Ordinary Shares of £1	1
Amicura Holdings Limited	Amicura Kettering Limited	Ordinary Shares of £1	100
Amicura Holdings Limited	Amicura Scarborough Limited	Ordinary Shares of £1	100
Amicura Holdings Limited	Amicura Haslingden Limited	Ordinary Shares of £1	801,006
Amicura Holdings Limited	Amicura Chorley Limited	Ordinary Shares of £0.01	5,771,277
Amicura Holdings Limited	Roseway Care Limited	Ordinary Shares of £1	100
Amicura Holdings Limited	Amicura Nuneaton Limited	Ordinary Shares of £1	100

SCHEDULE 3
- MORTGAGED PROPERTY

Chargor	County and District	Description of Property	Title Number
Amicura Morecambe Limited	Lancashire, Lancaster	The Glen Care Home (formerly known as Morecambe Bay Care Centre), Gleneagles Drive, Morecambe LA4 5BN	LA735905
Amicura Cleveland Park Limited	Tyne and Wear, North Tyneside	Kingfisher Care Home (formerly known as Cleveland Park Care Home), Cleveland Road, North Shields NE29 0NW	TY11885
Amicura Kettering Limited	Northamptonshire, Kettering	Temple Court Care Home (formerly known as Dove Court Nursing Home), Albert Street, Kettering NN16 0EB	NN176273
Amicura Scarborough Limited	North Yorkshire, Scarborough	Eagle View Care Home, Phoenix Drive, Scarborough YO12 4AZ	NYK191956
Amicura Haslingden Limited	Lancashire, Rossendale	Haslingden Hall and Lodge, Lancaster Avenue, Haslingden BB4 4HP	LAN55501
Amicura Chorley Limited	Lancashire, Chorley	Jasmine Court, Botany Brow, Chorley, Lancashire, PR6 0JQ	LAN56037
Roseway Care Limited	Tyne and Wear, South Tyneside	Roseway House Care Home (formerly known as Hillcrest Care Home), Wear Street, Jarrow NE32 3JN	TY311811
Amicura Nuneaton Limited	Warwickshire, Nuneaton and Bedworth	Harmony House, The Bull Ring, Chilvers Colton, Nuneaton, Warwickshire CV10 7BH	WK391313

SCHEDULE 4
- ACCOUNT DETAILS

[Intentionally left blank]

Name of Account Bank	Name of Account Holder	Account Name	Sort Code	Account Number	Currenc y
					GBP

SCHEDULE 5
- INSURANCE POLICIES

[Intentionally left blank]

EXECUTION PAGES TO THE DEBENTURE

CHARGORS

EXECUTED as a DEED by Mahesh Patel)
as director of)
AMICURA HOLDINGS LIMITED)
in the presence of:)



Director

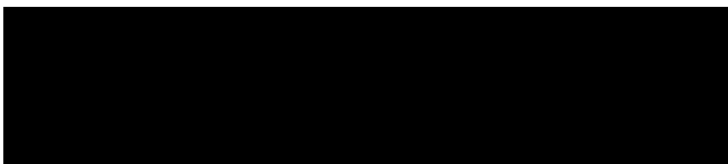
Signature of Witness:



Name:

LOUIS SINCLAIR

Address:



Occupation:

Address for Notices

Address: 238 Station Road, Addlestone, United Kingdom, KT15 2PS

Fax: 020 8423 9712

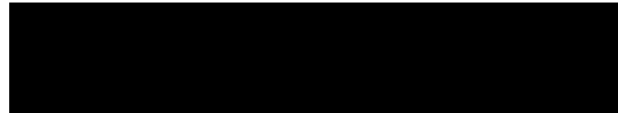
Attention: John Alflatt

EXECUTED as a DEED by Mahesh Patel)
as director of)
AMICURA LIMITED)
in the presence of:)



Director

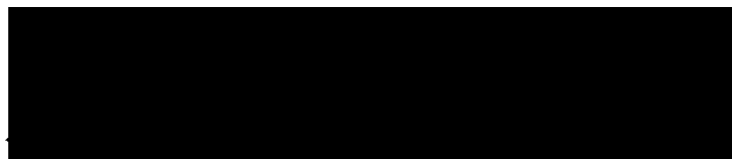
Signature of Witness:



Name:

LOUIS SINCLAIR

Address:



Occupation:

Address for Notices

Address: 238 Station Road, Addlestone, United Kingdom, KT15 2PS

Fax: 020 8423 9712

Attention: John Alflatt

EXECUTED as a DEED by Mahesh Patel)
as director of)
AMICURA MORECAMBE LIMITED)
in the presence of:)



Director

Signature of Witness:



Name:

18 Carl Louis Sinclair

Address:



Occupation:

Address for Notices

Address: 238 Station Road, Addlestone, United Kingdom, KT15 2PS

Fax: 020 8423 9712

Attention: John Alflatt

EXECUTED as a DEED by Mahesh Patel)
as director of)
AMICURA CLEVELAND PARK LIMITED)
in the presence of:)



Director

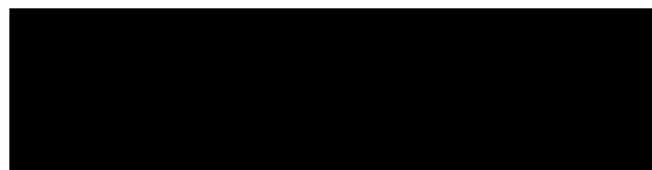
Signature of Witness:



Name:

LOUIS SINCLAR

Address:



Occupation:

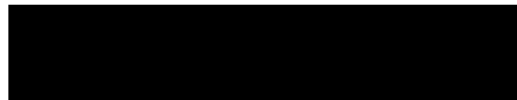
Address for Notices

Address: 238 Station Road, Addlestone, United Kingdom, KT15 2PS

Fax: 020 8423 9712

Attention: John Alflatt

EXECUTED as a DEED by Mahesh Patel)
as director of)
AMICURA KETTERING LIMITED)
in the presence of:)



Director

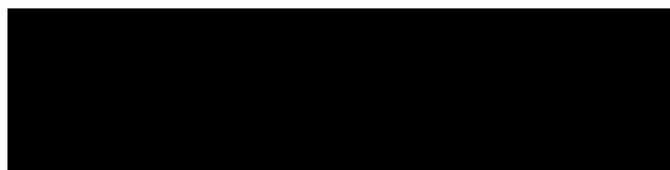
Signature of Witness:



Name:

LOUIS SINCLAIR

Address:



Occupation:

Address for Notices

Address: 238 Station Road, Addlestone, United Kingdom, KT15 2PS

Fax: 020 8423 9712

Attention: John Alflatt

EXECUTED as a DEED by Mahesh Patel)
as director of)
AMICURA SCARBOROUGH LIMITED)
in the presence of:)



Director

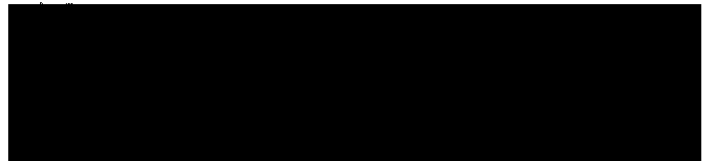
Signature of Witness:



Name:

LOUIS SINCLAIR

Address:



Occupation:

Address for Notices

Address: 238 Station Road, Addlestone, United Kingdom, KT15 2PS

Fax: 020 8423 9712

Attention: John Alflatt

EXECUTED as a DEED by Mahesh Patel)
as director of)
AMICURA HASLINGDEN LIMITED)
in the presence of:)



Director

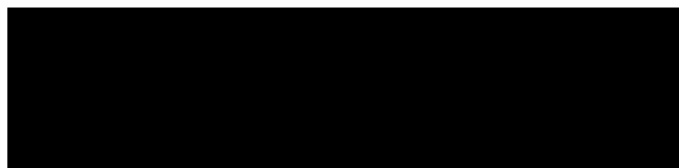
Signature of Witness:



Name:

LOUIS SINCLAIR

Address:



Occupation:

Address for Notices

Address: 238 Station Road, Addlestone, United Kingdom, KT15 2PS

Fax: 020 8423 9712

Attention: John Alflatt

EXECUTED as a DEED by Mahesh Patel)
as director of)
AMICURA CHORLEY LIMITED)
in the presence of:)



Director

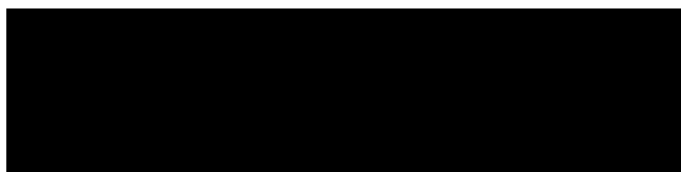
Signature of Witness:



Name:

LOUIS SINCLAIR

Address:



Occupation:

Address for Notices

Address: 238 Station Road, Addlestone, United Kingdom, KT15 2PS

Fax: 020 8423 9712

Attention: John Alflatt

EXECUTED as a DEED by Mahesh Patel)
as director of)
ROSEWAY CARE LIMITED)
in the presence of:)



Director

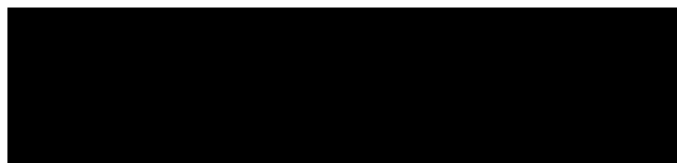
Signature of Witness:



Name:

Mr LOUIS SINCLAIR

Address:



Occupation:

Address for Notices

Address: 238 Station Road, Addlestone, United Kingdom, KT15 2PS

Fax: 020 8423 9712

Attention: John Alflatt

EXECUTED as a DEED by Mahesh Patel)
as director of)
AMICURA NUNEATON LIMITED)
in the presence of:)

[Redacted Signature]

Director

Signature of Witness:

[Redacted Signature]

Name:

AJAY SHARMA

Address:

[Redacted Address]

Occupation:

Address for Notices

Address: 238 Station Road, Addlestone, United Kingdom, KT15 2PS

Fax: 020 8423 9712

Attention: John Alflatt

LENDER

EXECUTED as a DEED by)
as an authorised signatory for and on behalf of)
FORT TRUSTEES LIMITED, AS TRUSTEES)
OF THE MAHESH AND ALKA PATEL 2003)
TRUST)

in the presence of:

MARK ROBINS

Authorised Signatory

Signature of Witness:

Name:

Address:

Occupation:

Jack Patel

Address for Notices

Address: Bordage House, Le Bordage, St Peter Port, Guernsey, GY1 1BU

Fax: 01481 711143

Attention: Gordon Snelling